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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO/OAKLAND
DIVISION

JANE ROE, an individual; MARY ROE,
an individual; SUSAN ROE, an
individual; JOHN ROE, an individual;
BARBARA ROE, an individual;
PHOENIX HOTEL SF, LLC, a
California limited liability company;
FUNKY FUN, LLC, a California limited
liability company; and 2930 EL
CAMINO, LLC, a California limited
liability company,

Plaintiffs,

v.

CITY AND COUNTY OF SAN
FRANCISCO, a California public entity,

Case No. 4:24-cv-01562-JST

**PLAINTIFFS' REQUEST FOR
JUDICIAL NOTICE**

*Filed concurrently with Plaintiffs' Reply
in Support of Motion for Preliminary
Injunction*

**ASSIGNED FOR ALL PURPOSES
TO THE HONORABLE DISTRICT
JUDGE JON S. TIGAR,
COURTROOM 6**

Action Filed: 03/14/2024
Trial Date: Unassigned

Defendants.

I. INTRODUCTION

Plaintiffs request, pursuant to Federal Rule of Evidence 201(b), that the Court take judicial notice of three legal complaints filed in the San Francisco Superior Court by the San Francisco City Attorney's Office on behalf of Defendant City and County of San Francisco, and the City Attorney's press release about those lawsuits. Plaintiffs also request that the Court take judicial notice of a document issued by the San Francisco Department of Public Health, entitled "*Pilot Treatment Connections and Safer Use Supplies Distribution Policy*," dated April 2, 2025.

II. DOCUMENTS FOR WHICH NOTICE IS REQUESTED

1. **File-endorsed complaint** filed by the San Francisco City Attorney in *City and County of San Francisco and the People of the State of California v. 2008 Oh Family Trust, et al.*, Case No. CGC-25-624263 (Declaration of Ashcon Minoiefar, ¶2, Exhibit A).
2. **File-endorsed complaint** filed by the San Francisco City Attorney in *City and County of San Francisco and the People of the State of California v. Ursula Fung, et al.*, Case No. CGC-25-624264 (Declaration of Ashcon Minoiefar, ¶3, Exhibit B).
3. **File-endorsed complaint** filed by the San Francisco City Attorney in *City and County of San Francisco and the People of the State of California v. 155 Turk Street Associates L.P.*, Case No. CGC-25-624266, (Declaration of Ashcon Minoiefar, ¶4, Exhibit C).
4. **Press release** issued by the San Francisco City Attorney's Office titled "*City Attorney Sues Tenderloin Drug and Gambling Dens Fronting as Small Businesses*" (May 23, 2024), available at <https://sfcityattorney.org/city-attorney-sues-tenderloin-drug-and-gambling-dens-fronting-as-small-businesses/> (Declaration of Ashcon Minoiefar, ¶5, Exhibit D).
5. **SFDPH policy** titled *San Francisco Department of Public Health Pilot Treatment Connections and Safer Use Supplies Distribution Policy* (April 2, 2025) (Declaration of Ashcon Minoiefar, ¶6, Exhibit E).

1 III. ARGUMENT

2 Under Federal Rule of Evidence 201(b), a court may take judicial notice of a
3 fact “not subject to reasonable dispute because it...can be accurately and readily
4 determined from sources whose accuracy cannot reasonably be questioned.” Federal
5 courts routinely take judicial notice of court filings and other matters of public
6 record. *See United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*,
7 971 F.2d 244, 248 (9th Cir. 1992).

8 A. The Four Documents Relating to the City’s Nuisance Lawsuits 9 Against Tenderloin Markets.

10 The first four documents relate to nuisance actions that the City Attorney
11 filed, on April 10, 2025, in the name of the City and the People of the State of
12 California against the owners and operators of three neighborhood markets in the
13 Tenderloin. Exhibits A, B, and C are file-endorsed copies of complaints filed by the
14 San Francisco City Attorney against the owners and operators of stores in the
15 Tenderloin that allegedly, among other things, sold drug paraphernalia. The
16 complaints allege that this activity “attracted criminal and nuisance activity to the
17 surrounding community...adversely affecting the neighborhood and the health,
18 safety, and well-being of those who live and work in the area.” (Ex. A at ¶ 2; Ex. B at
19 ¶ 2; Ex. C at ¶ 2.) The City’s complaints allege that the defendants sold
20 paraphernalia “used to ingest or inhale controlled substances,” and that this conduct
21 “adversely affects public health, contributes to illegal drug activity, and contributes
22 to other criminal activity.” (Ex. A at ¶ 54; Ex. B at ¶ 45; Ex. C at ¶ 41.) The City
23 Attorney’s press release announcing these suits reinforces those allegations,
24 describing the stores as “magnets for substantial illegal activity,” and stating that
25 their operations “threaten the safety of the children, families, and seniors in [the]
26 community.” (Ex. D)

27 Plaintiffs do not offer these materials for the truth of the matters asserted in
28 them. Rather, they are properly noticed to establish that the City made the

1 statements and allegations contained in them. Courts regularly take judicial notice of
2 public records for this limited, non-hearsay purpose—namely, to show that a party
3 made inconsistent representations or to permit impeachment. (See *Lee v. City of Los*
4 *Angeles*, 250 F.3d 668, 689–90 (9th Cir. 2001) (court may take notice of public records
5 “not for the truth of the facts recited therein, but for the existence” of the records).)
6 These materials collectively demonstrate the inconsistency between the City’s prior
7 statements condemning the sale of smoking paraphernalia as harmful and its
8 current policy permitting the free distribution of the same supplies under the guise of
9 harm reduction.

10 This distinction matters here. The City’s recent nuisance complaints and
11 public press release—each asserting that the sale of smoking paraphernalia “attracts
12 crime” and “endangers public health”—flatly contradict the City’s current defense of
13 its own policy pertaining to the distribution of identical paraphernalia by City-funded
14 vendors. Judicial notice for impeachment and inconsistency serves the Rule 201
15 purpose of clarifying the record without turning these statements into factual
16 findings. (See *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th
17 Cir. 2006) (taking notice of filings to indicate what was filed, not for the truth of the
18 contents).)

19 Because these materials are official court filings and an official government
20 press release, whose authenticity and content cannot reasonably be disputed, they
21 are properly subject to judicial notice under Rule 201(b).

22 B. **The April 2, 2025 Version of the City’s Policy Permitting the**
23 **Distribution of Smoking Paraphernalia differs significantly**
24 **from the earlier version of that policy that the City submitted to**
this Court.

25 The fifth document, Exhibit E, is the April 2, 2025 version of the official policy
26 by which the City permits its contractors and subcontractors to distribute “safer use”
27 smoking paraphernalia, such as pipes, foil, and straws. This version of the policy,
28 which Plaintiffs found on the City’s official website, differs significantly from the

1 April 1, 2025 version of the policy that the City submitted to this Court. ECF no. 105-
2 53 (Ex. G to Philip Decl. entitled “*SFDPH Pilot Policy: Connections to Treatment and*
3 *Safer Use Supplies Distribution*”).

4 The April 1 version of the policy, the version which the City proffered to this
5 Court, states that the vendors that distribute the paraphernalia “**must include**
6 **proactive counseling (e.g. with motivational interviewing) and connections**
7 **to treatment.**” *Id.* (boldface in original).

8 The April 2 version of the policy, which Plaintiffs proffer to the Court,
9 however, sets forth an exception to this rule: “all programs must offer treatment
10 referrals and connections to treatment at every interaction to the extent practical
11 and receivable by the participant.” (Ex. E at p. 2.) As discussed in Plaintiffs’ reply
12 brief, one City contractor has, with the City’s approval, expanded this exception to
13 the point where it has swallowed the rule. (See Reply discussion of testimony of Dr.
14 Tyler TerMeer.) Moreover, the April 2 version of the policy, unlike the April 1
15 version, explicitly authorizes the distribution of smoking paraphernalia to minors. *Id.*
16 at section 5, p. 3. As one City-funded contractor admitted, a child who looks no older
17 than 10-years old can obtain free paraphernalia. (See testimony of Dr. Tyler TerMeer
18 cited in Plaintiffs’ reply.) Plaintiffs contend that handing out fentanyl pipes to
19 *children* in the neighborhood is a harm that outweighs any benefit.

20 This SFDPH document qualifies for judicial notice under Rule 201(b) because
21 it is an official government publication whose accuracy and authenticity cannot
22 reasonably be questioned. Courts regularly take notice of similar materials. (See
23 *Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998-99 (9th Cir. 2010) (taking notice
24 of official government information published online).)

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1 **IV. CONCLUSION**

2 For the foregoing reasons, Plaintiffs respectfully request that the Court take
3 judicial notice of Exhibits A-E.

4 Dated: November 21, 2025

WALKUP, MELODIA, KELLY & SCHOENBERGER

5
6 By:  _____

7 ASHCON MINOIEFAR

8 Attorneys for ALL PLAINTIFFS
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PROOF OF SERVICE

**Jane Roe, et al. v. City and County of San Francisco, et al.
USDC-Northern California Case No. 4:24-cv-01562-JST**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the county where the mailing took place, My business address is 650 California Street, 26th Floor, City and County of San Francisco, CA 94108-2615.

On the date set forth below, I caused to be served true copies of the following document(s) described as

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24 **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the
25 document(s) with the Clerk of the Court by using the CM/ECF system. Participants
26 in the case who are registered CM/ECF users will be served by the CM/ECF system.
27 Participants in the case who are not registered CM/ECF users will be served by mail
or by other means permitted by the court rules.

28 I declare under penalty of perjury under the laws of the United States of
America that the foregoing is true and correct and that I am employed in the office of

1 a member of the bar of this Court at whose direction the service was made.

2 Executed on November 21, 2025, at San Francisco, California.

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5 Kirsten Benzien